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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
10/771,763	02/04/2004	David E. Grober		3650

7590 06/05/2007

David E. Grober
616 Venice Blvd.
Venice, CA 90291

EXAMINER	
MAHONEY, CHRISTOPHER E	

ART UNIT	PAPER NUMBER
2851	

MAIL DATE	DELIVERY MODE
06/05/2007	PAPER

Please find below and/or attached an Office communication concerning this application or proceeding.

The time period for reply, if any, is set in the attached communication.

Office Action Summary	Application No.	Applicant(s)	
	10/771,763	GROBER, DAVID E.	
	Examiner	Art Unit	
	Christopher E. Mahoney	2851	

-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

Period for Reply

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) OR THIRTY (30) DAYS, WHICHEVER IS LONGER, FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133). Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

Status

1)☒ Responsive to communication(s) filed on 12/21/06

2a)☒ This action is **FINAL**. 2b)☐ This action is non-final.

3)☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

Disposition of Claims

4)☒ Claim(s) 1-36 is/are pending in the application.

4a) Of the above claim(s) 5,6,12-16,18,24-26,35 and 36 is/are withdrawn from consideration.

5)☐ Claim(s) _____ is/are allowed.

6)☒ Claim(s) 1-4,7-11,17,19-23 and 27-34 is/are rejected.

7)☐ Claim(s) _____ is/are objected to.

8)☐ Claim(s) _____ are subject to restriction and/or election requirement.

Application Papers

9)☐ The specification is objected to by the Examiner.

10)☐ The drawing(s) filed on _____ is/are: a)☐ accepted or b)☐ objected to by the Examiner.

Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).

Replacement drawing sheet(s) including the correction is required if the drawing(s) is objected to. See 37 CFR 1.121(d).

11)☐ The oath or declaration is objected to by the Examiner. Note the attached Office Action or form PTO-152.

Priority under 35 U.S.C. § 119

12)☐ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).

a)☐ All b)☐ Some * c)☐ None of:

1.☐ Certified copies of the priority documents have been received.

2.☐ Certified copies of the priority documents have been received in Application No. _____.

3.☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).

* See the attached detailed Office action for a list of the certified copies not received.

Attachment(s)

1) ☒ Notice of References Cited (PTO-892)
2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948)
3) ☐ Information Disclosure Statement(s) (PTO/SB/08) Paper No(s)/Mail Date _____.
4) ☐ Interview Summary (PTO-413) Paper No(s)/Mail Date. _____.
5) ☐ Notice of Informal Patent Application
6) ☐ Other: _____.

DETAILED ACTION

Restriction to one of the following inventions is required under 35 U.S.C. 121:

I. Claims 1-14, 17, 19-23, and 27-29, 30-34, drawn to a stabilized buoy platform with a device mounted on the stabilized system, classified in class 396, subclass 55.

II. Claims 15-16 and 18, drawn to a method of calculating joint angles, classified in class 702, subclass 151.

III. Claims 24-26, drawn to a height adjustment device, classified in class 248, subclass 653.

IV. Claims 35-36, drawn to a method of fighting fires.

Inventions I, II , II, and IV are related as subcombinations disclosed as usable together in a single combination. The subcombinations are distinct from each other if they are shown to be separately usable. In the instant case, invention I has separate utility such as use for a stabilized buoy platform which does not utilize calculation of joint angles adjusting height on a non buoy platform or fighting a fire. See MPEP § 806.05(d).

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art as shown by their different classification, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and the search required for Group I is not required for Groups II-IV, restriction for examination purposes as indicated is proper.

Because these inventions are distinct for the reasons given above and have acquired a separate status in the art because of their recognized divergent subject matter, restriction for examination purposes as indicated is proper.

This application contains claims directed to the following patentably distinct species of the claimed invention:

A1 a camera;

A2 a thermal imager;

B1 a sensor;

C1 a GPS

D1 a particle projector which projects water;

D2 a particle projector which projects chemical(s);

D3 a particle projector which projects paint;

D4 a particle projector which projects solvent;

D5 a particle projector which projects sand;

D6 a particle projector which projects rock(s)

E1 a paint brush tool;

E2 a drill tool;

E3 a welder tool.

Newly submitted claims 24-26 and 35-36 directed to an invention that is independent or distinct from the invention originally claimed for the reasons given above.

Since applicant has received an action on the merits for the originally presented invention, this invention has been constructively elected by original presentation for prosecution

on the merits. Accordingly, claims 15-16, 18, 24-26 and 35-36 are withdrawn from consideration as being directed to a non-elected invention. See 37 CFR 1.142(b) and MPEP § 821.03.

Claim Rejections - 35 USC § 112

The following is a quotation of the first paragraph of 35 U.S.C. 112:

> The specification shall contain a written description of the invention, and of the manner and process of making and using it, in such full, clear, concise, and exact terms as to enable any person skilled in the art to which it pertains, or with which it is most nearly connected, to make and use the same and shall set forth the best mode contemplated by the inventor of carrying out his invention.

Claims 1-4, 7-11, 17, 19, 20-23, and 27-29 are rejected under 35 U.S.C. 112, first paragraph, as failing to comply with the written description requirement. The claim(s) contains subject matter which was not described in the specification in such a way as to reasonably convey to one skilled in the relevant art that the inventor(s), at the time the application was filed, had possession of the claimed invention. Specifically, the specification does not discuss the exclusion of Royalty (U.S. Pat. No. 6,859,185).

Claims 1-4, 7-11, 17, 19, 20-23, and 27-29 are rejected under 35 U.S.C. 112, second paragraph, as being indefinite for failing to particularly point out and distinctly claim the subject matter which applicant regards as the invention. The applicant is attempting to define the claim by what the invention is not rather than what it is. While a negative limitation in itself may be permitted in claiming an invention, the limitation may not be recited as an attempt to claim the invention by excluding what the inventors did not invent rather. The negative limitation must define boundaries of the patent protection sought set forth definitely. The applicant is directed to review MPEP 2173.05(i).

Claim Rejections - 35 USC § 102

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

> A person shall be entitled to a patent unless –
>
> (b) the invention was patented or described in a printed publication in this or a foreign country or in public use or on sale in this country, more than one year prior to the date of application for patent in the United States.
>
> (e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

Claims 1-4, 7-11, 17, 19, 21-23, 30-31 and 33-34 are rejected under 35 U.S.C. 102(b) as being anticipated by Fuereder (U.S. Pat. No. 5,449,307). Fuereder teaches a stabilized buoy platform comprising a buoy 11 at least on or more active stabilizing heads 32 mounted to the buoy and at least one device which includes one of a camera (visionics), sensor 32, stabilized from movements of the buoy, wherein the sensor tool is not an antenna with canted arm stabilization found in Royalty US Pat. 6,859,185. A second device (camera, sensor, weapon) is combined with the at least one stabilized device. If the tool is a weapon it is capable of the physical operation of discharge.

Claim Rejections - 35 USC § 103

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

> (a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

Claim 27 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuereder (U.S. Pat. No. 5,449,307) in view of Rast (U.S. Pat. No. 2004/0056779). Fuereder teaches the salient features of the claimed invention except for an anchor. Rast teaches that it was known to anchor (116/118) a buoy. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the features taught by Rast for the purpose of preventing loss of the buoy.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuereder (U.S. Pat. No. 5,449,307) in view of Galante (U.S. Pat. No. 3,258,595). Fuereder teaches the salient features of the claimed invention except for propulsion. Galante teaches that it was known to propel a buoy (see claim 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the features taught by Galante for the purpose of positioning of the buoy.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuereder (U.S. Pat. No. 5,449,307) in view of Spagnoli (U.S. Pat. No. 5,304,581). Fuereder teaches the salient features of the claimed invention except a shock absorbing material. Spagnoli teaches in col. 10, line 31 that it was known to utilize an microcellular elastomeric polyurethanes in a buoy. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize an MEP, for the purpose of utilizing readily available materials. The applicant should note that it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Claim 32 is rejected under 35 U.S.C. 103(a) as being unpatentable over Fuereder (U.S. Pat. No. 5,449,307). Fuereder teaches the salient features of the claimed invention except for placing a person on the buoy for performing manual operations. It would have been obvious to one of ordinary skill in the art at the time the invention was made to provide a person on the buoy operating the individual components for the purpose of maintenance and or testing of the equipment.

Claims 1, 7-11, 17, 19, 30, and 33 are rejected under 35 U.S.C. 102(e) as anticipated by or, in the alternative, under 35 U.S.C. 103(a) as obvious over Royalty (U.S. Pat. No. 6,859,185). Royalty teaches a stabilized buoy platform (col. 1, lines 10-14) for mounting a stabilized platform 22 on the buoy, a stabilizing system 30/36/38 mounted on the platform for stabilizing a singular or plurality of devices (antenna) from the movements of the buoy in three directions which include pitch, roll and azimuth, and at least one tool (antenna) mounted on the stabilizing system. An antenna both senses and transmits electromagnetic radiation. Any programming which controls the stabilization are commands from a person or computer. Any platform which is mounted on a vehicle is capable of being removed and is therefore removable. The applicant is directed to review figures 1-3. Royalty discloses in col 17, lines 16-24 that modifications and other embodiments are permissible within the disclosed invention. The invention is not limited to the specific elements depicted. Therefore another antenna may be used. Alternatively it would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize an alternative antenna as taught by Royalty for the purpose of providing a less expensive system or for the purpose of providing different forms of communication.

Claims 1-3, 7-11, 17, and 19 are rejected under 35 U.S.C. 103(a) as being unpatentable over Royalty (U.S. Pat. No. 6,859,185) in view of Trask (U.S. Pat. No. 5,122,807) or Jordan (U.S. Pat. No. 5,872,535). Royalty teaches a stabilized buoy platform (col. 1, lines 10-14) for mounting a stabilized platform 22 on the buoy, a stabilizing system 30/36/38 mounted on the platform for stabilizing a singular or plurality of devices (antenna) from the movements of the buoy in three directions which include pitch, roll and azimuth, and at least one tool (antenna) mounted on the stabilizing system. An antenna both senses and transmits electromagnetic radiation. Any programming which controls the stabilization are commands from a person or computer. Any platform which is mounted on a vehicle is capable of being removed and is therefore removable. The applicant is directed to review figures 1-3. Royalty discloses in col 17, lines 16-24 that modifications and other embodiments are permissible within the disclosed invention. The invention is not limited to the specific elements depicted. Trask teaches utilizing three different orthogonal antennae or an antenna array. The antennae of Trask and Jordan are not the ones found in Royalty. The applicant is directed to review the abstract of Trask. Jordan also teaches using at least three antennae or an array. The applicant is directed to review figures 1-2 of Jordan. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the features taught by Trask for the purpose of improved direction finding. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the features taught by Jordan for the purpose of measuring wind profiles.

Claims 4 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Royalty (U.S. Pat. No. 6,859,185) in view of Rast (U.S. Pat. No. 2004/0056779). Royalty teaches the salient features of the claimed invention except for a camera. Rast teaches that it was known to

provide a camera 88/90 on a buoy system. The applicant is directed to review figure 1. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the features taught by Rast for the purpose of allowing monitoring conditions at the buoy.

Claims 4 and 27 are rejected under 35 U.S.C. 103(a) as being unpatentable over Royalty (U.S. Pat. No. 6,859,185) in view of in view of Trask (U.S. Pat. No. 5,122,807) or Jordan (U.S. Pat. No. 5,872,535) and further in view of Rast (U.S. Pat. No. 2004/0056779). Royalty in view of Trask/Jordan teaches the salient features of the claimed invention except for a camera. Rast teaches that it was known to provide a camera 88/90 on a buoy system. The applicant is directed to review figure 1. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the features taught by Rast for the purpose of allowing monitoring conditions at the buoy.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Royalty (U.S. Pat. No. 6,859,185) in view Edmondson (U.S. Pat. No. 2,172,440). Royalty teaches the salient features of the claimed invention except for automatic braking of the shafts. Edmondson teaches that it was known to provide automatic motor braking on the shafts. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the features taught by Edmondson for the purpose of automating cessation of unwanted movement.

Claim 20 is rejected under 35 U.S.C. 103(a) as being unpatentable over Royalty (U.S. Pat. No. 6,859,185) in view of in view of Trask (U.S. Pat. No. 5,122,807) or Jordan (U.S. Pat. No. 5,872,535) and further in view of Edmondson (U.S. Pat. No. 2,172,440). Royalty in view of Trask/Jordan teaches the salient features of the claimed invention except for a except for automatic braking of the shafts. Edmondson teaches that it was known to provide automatic

motor braking on the shafts. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the features taught by Edmondson for the purpose of automating cessation of unwanted movement.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Royalty (U.S. Pat. No. 6,859,185) in view Galante (U.S. Pat. No. 3,258,595). Royalty teaches the salient features of the claimed invention except for propulsion. Galante teaches that it was known to propel a buoy (see claim 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the features taught by Galante for the purpose of positioning of the buoy.

Claim 28 is rejected under 35 U.S.C. 103(a) as being unpatentable over Royalty (U.S. Pat. No. 6,859,185) in view of in view of Trask (U.S. Pat. No. 5,122,807) or Jordan (U.S. Pat. No. 5,872,535) and further in view of Galante. Royalty in view of Trask/Jordan teaches the salient features of the claimed invention except for propulsion. Galante teaches that it was known to propel a buoy (see claim 1). It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize the features taught by Galante for the purpose of positioning of the buoy by Edmondson for the purpose of automating cessation of unwanted movement.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Royalty (U.S. Pat. No. 6,859,185) in view Spagnoli (U.S. Pat. No. 5,304,581). Royalty teaches the salient features of the claimed invention except a shock absorbing material. Spagnoli teaches in col. 10, line 31 that it was known to utilize an microcellular elastomeric polyurethanes in a buoy. It would have been obvious to one of ordinary skill in the art at the time the invention was made to

utilize an MEP, for the purpose of utilizing readily available materials. The applicant should note that it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Claim 29 is rejected under 35 U.S.C. 103(a) as being unpatentable over Royalty (U.S. Pat. No. 6,859,185) in view of in view of Trask (U.S. Pat. No. 5,122,807) or Jordan (U.S. Pat. No. 5,872,535) and further in view of Spagnoli (U.S. Pat. No. 5,304,581). Royalty in view of Trask/Jordan teaches the salient features of the claimed invention except a shock absorbing material. Spagnoli teaches in col. 10, line 31 that it was known to utilize an microcellular elastomeric polyurethanes in a buoy. It would have been obvious to one of ordinary skill in the art at the time the invention was made to utilize an MEP, for the purpose of utilizing readily available materials. The applicant should note that it has been held to be within the general skill of a worker in the art to select a known material on the basis of its suitability for the intended use as a matter of obvious design choice. *In re Leshin*, 125 USPQ 416.

Response to Arguments

Applicant's arguments with respect to the claims have been considered but are moot in view of the new ground(s) of rejection.

Applicant's arguments filed December 21, 2006 have been fully considered but they are not persuasive.

The applicant argues that the present application is a CIP of a parent application filed Sep 7, 2002 and the major difference being the substitution of tools or devices for camera. The

substitution of tools or devices is enough to require the application to become a CIP especially considering the scope to which the applicant is looking to claim (i.e. painters, hoses, etc.). The filing date of the current application is February 4, 2004 which is after the filing date of Royalty. In order for the applicant to predate the reference with applicant's earlier filing date, none of the newly added material added in the later, current application must be present in the claim.

The Royalty patent is considered a valid US Patent.

The applicant has argued the tools limitation when a sensor is what has been elected. An antenna is a sensor.

Claim 5 is not currently examined as it is a non-elected claim. Applicant has argued that there is a tool and a sensor. This is not how claim 1 was originally elected and thus claim 5 was and remains non-elected. It will not be rejoined unless it depends from an allowable claim, it does not conflict with its parent claim(s) and the application is otherwise in condition for allowance.

Conclusion

THIS ACTION IS MADE FINAL. Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire THREE MONTHS from the mailing date of this action. In the event a first reply is filed within TWO MONTHS of the mailing date of this final action and the advisory action is not mailed until after the end of the THREE-MONTH shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Christopher E. Mahoney whose telephone number is (571) 272-2122. The examiner can normally be reached on 8:30AM-5PM, Monday-Thursday.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Diane Lee can be reached on (571) 272-2399. The fax phone number for the organization where this application or proceeding is assigned is 571-273-8300.

Information regarding the status of an application may be obtained from the Patent Application Information Retrieval (PAIR) system. Status information for published applications may be obtained from either Private PAIR or Public PAIR. Status information for unpublished applications is available through Private PAIR only. For more information about the PAIR system, see http://pair-direct.uspto.gov. Should you have questions on access to the Private PAIR system, contact the Electronic Business Center (EBC) at 866-217-9197 (toll-free). If you would like assistance from a USPTO Customer Service Representative or access to the automated information system, call 800-786-9199 (IN USA OR CANADA) or 571-272-1000.

CHRISTOPHER MAHONEY
PRIMARY EXAMINER